

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: November 17, 2023

DONNA OSSO,

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PUBLISHED

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Petitioner,

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No. 18-575V

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v.

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Special Master Nora Beth Dorsey

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

Damages Award; Hepatitis B Vaccine;
Guillain-Barré Syndrome (“GBS”).

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Respondent.

*

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Brian L. Cinelli, Schiffmacher Cinelli Adoff LLP, Buffalo, NY, for Petitioner.

Ryan Pyles, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES BASED ON PROFFER¹

On April 20, 2018, Donna Osso (“Petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program (“Vaccine Act” or “the Program”), 42 U.S.C. § 300aa-10 *et seq.* (2018).² Petitioner alleged that she suffered Guillain-Barré Syndrome (“GBS”) as the result of a hepatitis B vaccination administered on April 23, 2015. Petition at Preamble (ECF No. 1). On July 13, 2023, the undersigned issued a ruling finding Petitioner entitled to compensation. Ruling on Entitlement dated July 13, 2023 (ECF No. 98).

¹ Because this Decision contains a reasoned explanation for the action in this case, the undersigned is required to post it on the United States Court of Federal Claims’ website and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc> in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the Internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 to -34 (2018). All citations in this Decision to individual sections of the Vaccine Act are to 42 U.S.C. § 300aa.

On November 17, 2023, Respondent filed a Proffer on Award of Compensation (“Proffer”), attached hereto as Appendix A. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. Proffer at 2. Based on the record as a whole, the undersigned finds that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, the undersigned awards Petitioner:

- (1) A lump sum payment of \$2,524.26, representing compensation for satisfaction of a State of New York Medicaid lien, payable jointly to Petitioner and**

**New York State Department of Health
P.O. Box 415874
Boston, MA 02241-5874**

Petitioner agrees to endorse this payment to the State; and

- (2) A lump sum payment of \$328,049.33, representing compensation for actual and projected pain and suffering (\$160,000.00) and lost earnings (\$168,049.33), in the form of a check payable to Petitioner, Donna Osso.**

Proffer at 1-2. This amount represents all elements of compensation to which Petitioner is entitled under § 15(a). Id.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of the Court **SHALL ENTER JUDGMENT** herewith.³

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties’ joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

DONNA OSSO,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 18-575V

Special Master Nora Beth Dorsey
ECF

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On April 20, 2018, Donna Osso (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that she developed Guillain-Barré syndrome as the result of a Hepatitis B vaccine she received on April 23, 2015. Petition at 1. On April 29, 2019, the Secretary of Health and Human Services (“respondent”) filed a supplemental Rule 4(c) Report recommending that compensation be denied and the petition be dismissed. ECF No. 14. On July 13, 2023, the Special Master issued a Ruling on Entitlement (“Ruling”) finding petitioner entitled to compensation. ECF No. 98. Based on the Special Master’s Ruling, respondent proffers the following compensation:

- a. A lump sum payment of **\$2,524.26**, representing compensation for satisfaction of a State of New York Medicaid lien, payable jointly to petitioner and

New York State Department of Health
P.O. Box 415874
Boston, MA 02241-5874.

Petitioner agrees to endorse this payment to the State; and

b. A lump sum of **\$328,049.33** in the form of a check payable to petitioner. This amount represents compensation for all remaining damages available under 42 U.S.C. § 300aa-15(a).¹

Petitioner agrees with the foregoing proffered award.² Petitioner is a competent adult.

Evidence of guardianship is not required in this case.

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

C. SALVATORE D’ALESSIO
Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

ALEXIS B. BABCOCK
Assistant Director
Torts Branch, Civil Division

s/ RYAN D. PYLES
RYAN D. PYLES
Senior Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
Tel: (202) 616-9847
ryan.pyles@usdoj.gov

DATED: November 17, 2023

¹ Of this total amount, \$160,000.00 represents an award for actual and projected pain and suffering at net present value, and \$168,049.33 represents an award for loss of earnings. This proffer does not include any award for attorneys’ fees and costs that may be awarded pursuant to 42 U.S.C. § 300aa-15(e).

² Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future lost earnings, future expenses, and future pain and suffering.